REMARKS

Reconsideration is respectfully requested.

Claims 4, 16, and 25 through 48 have been cancelled.

No claims are currently withdrawn.

No claims have been added.

Therefore, claims 1 through 3, 5 through 15, and 17 through 24 remain in this application.

Entry of the above amendments is courteously requested in order to place all claims in this application in allowable condition and/or to place the non-allowed claims in better condition for consideration on appeal. Previously withdrawn claims 25 through 48 have been cancelled. Claims 1, 8, 13, and 21 have been amended at the suggestion and direction of the Examiner in the final Office Action to overcome the objection to the informalities mentioned in the objection.

Furthermore, claims 1 and 13 have been amended to include the requirements of claims 4 and 16, respectively, which previously depended from the respective claims and therefore it is submitted that the amendments to claims 1 and 13 do not introduce new issues that require further searching or consideration. Therefore, it is submitted that the above requested amendments should be entered.

The Examiner's rejections will be considered in the order of their occurrence in the Office Action.

Part 1 of the Office Action

Claims 1, 9, 13, and 21 have been objected to for the informalities noted in the Office Action.

Claims 1, 9, 13 and 21 have been amended in a manner corresponding to the suggestions made in the Office Action.

Withdrawal of the objection to claims 1, 9, 13, and 21 is therefore respectfully requested.

Parts 2 and 3 of the Office Action

Claims 1 through 3 and 13 through 15 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Berry in view of Cunningham.

Additionally, claims 4 through 12 and 16 through 24 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Berry and Cunningham in view of "Home Loans in Cyberspace" (hereinafter referred to as "Home Loans").

As noted above, claim 1 has been amended to include the requirements of claim 4, and therefore requires, in part, "receiving notification of services for which the applicant is eligible from the secondary services provider and informing the applicant of the services provided by the secondary services provider for which the applicant is eligible". Similarly, but not identically, claim 13 has been amended to include the requirements of claim 16, and therefore requires in part "receiving notification of services for which the applicant is eligible from the secondary services provider and informing the applicant of the services provided by the secondary services provider for which the applicant is eligible".

Looking first to the rejection of the final Office Action regarding claims 4 and 16, which is based not only upon the allegedly obvious

combination of Berry and Cunningham, but also relies upon the Home Loans publication, the rejection concedes that:

> Berry and Cunningham failed to disclose, further comprising receiving notification of services for which the applicant is eligible from the secondary service provider and informing the applicant of the services provided by the secondary service provider for which the applicant is eligible.

It is then asserted in the rejection that:

> Home Loans discloses, receiving notification of services for which the applicant is eligible from the secondary service provider and informing the applicant of the services provided by the secondary service provider for which the applicant is eligible (Pg. 2, para.'s 12 and 13).

And it is further argued in the rejection that Emphasis added):

> It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teachings of Home Loans in Berry because such an incorporation would allow Berry to inform the applicant of the eligible services from another service provider since the first service provider could not provide the services.

However, it is submitted that the Home Loans document does not disclose "receiving notification of services for which the applicant is eligible from the secondary services provider" "since the first provider could not provide the services" as contended in the portion of the rejection set forth above. Looking to the text of the Home Loans document that is being relied upon, it states on page 2 that (all emphasis added):

> Conforming loans with A-credit may be approved in four hours. An A-credit applicant may be residential or commercial, but they can't be behind on paying bills that are substantial, Sid Banner said.
>
> "That includes car payments, mortgages, etcetera," he said. "If they have less than A-credit, and don't fit the four-hour approval, then we have more than 50 in-stock lenders who can help us go the normal processing route."
>
> Once the deal passes the company's risk analysis team, it's transmitted, via ET program to an in-stock lender who is directly connected to the Federal Home Loan Mortgage Corp., or Freddie Mac, a publicly traded company established by the U.S. Congress in 1970 to provide funds to the mortgage industry.

> The Freddie Mac computer receives the information via modem, and scores the information to determine how risky the loan would be.
>
> The computer's conclusions are based on statistical models from previously issued loans and it evaluates how the applicant compares with borrowers throughout the nation.

Instead, and in contrast to the present invention, the Home Loans document discusses two different processes for approving a home loan—an accelerated ("four hour approval") processing route and a "normal processing route"—but does not disclose that a "first service provider could not provide the services" and the existence of a "secondary service provider". The Home Loans document merely discusses determining if the applicant qualifies for the "four hour approval" processing route, and if the applicant does not meet the criteria for the "four hour approval" processing route, then the application of the applicant must take the "normal processing route", but there is no disclosure that a first service provider is consulted, or that the first service provider cannot "provide the services", and as a result a secondary service provider "inform[s] the applicant of the services provided by the secondary services provider for which the applicant is eligible".

In other words, the Home Loans document does not regard a process of consulting a second service provider if a first service provider is unable to provide services, but a process for determining which of two application processes may be used to process the applicant's loan application, and there is no suggestion that the process of the Home Loans document involves consulting a first and then a second service provider. Therefore, it is submitted that the Home Loans document cannot disclose to one of ordinary skill in the art "receiving notification of services for which the applicant is eligible from the secondary services provider and informing the applicant of the services provided by the secondary services provider for which the applicant is eligible" for the reason that "the first service provider could not provide the services".

Now turning to another requirement of claim 1 (with a similar requirement being included in claim 13), the language requires, in part, "receiving notification of those services for which the applicant is eligible *from* the primary service provider, if the applicant is eligible to receive any services *from* the primary service provider" (all emphasis added).

It is alleged in the rejection of claim 1 that:

> With respect to claims 1 and 13, Berry discloses, A method and a program of instructions, for determining the availability of services via a network, comprising: collecting application data from an applicant via the network, said application data suitable for use for evaluating the suitability of the applicant for receiving services provided by a service provider (Pg. 7, line 5-Pg. 8, line 18 and Fig.'s 6-12-shows an application); transmitting the collected application data to a primary service provider via the network for evaluation of the eligibility of the applicant for receiving services provided by the primary service provider, the primary service provider being a financial institution, the financial institution being a preferred service provider providing at least one service for low risk applicants and service having more favorable credit terms (Pg. 11, line 11-Pg. 12, line 29 and Pg.13, lines 13-19).

It is then conceded in the rejection that (numerals added):

> Berry failed to disclose, [1] receiving notification of those services for which the applicant is eligible from the primary service provider, if the applicant is eligible to receive any services provided by the primary service provider; and [2] transmitting the collected application data to at least one secondary service provider via the network for evaluation of the eligibility of the applicant for receiving services provided by the secondary service provider, if the applicant is ineligible for all services provided by the primary service provider, wherein the secondary service provider is a financial institution, the financial institution being a second tier provider providing at least one of service for high risk applicants and service having less favorable credit terms.

It is then contended that (numerals added):

> Cunningham discloses, [1] receiving notification of those services for which the applicant is eligible from the primary service provider, if the applicant is eligible to receive any services provided by the primary service provider (col. 4, line 65-col. 5, line 5); and [2] transmitting the collected application data to at least one secondary

> service provider via the network for evaluation of the eligibility of the applicant for receiving services provided by the secondary service provider, if the applicant is ineligible for all services provided by the primary service provider, wherein the secondary service provider is a financial institution, the financial institution being a second tier provider providing at least one of service for high risk applicants and service having less favorable credit terms (col. 5, lines 6-43). It would have been obvious to one having ordinary skill in the art at the time the invention was made incorporate in Berry the teachings of Cunningham because such an incorporation would allow Berry to have the ability to be offered products and services at a higher interest rate if the credit score is a low credit score and if the credit score is a high credit score to be offered more products and services and have a lower interest rate on a loan according.

It is submitted that the Cunningham patent fails to disclose the invention as recited in claims 1 and 13, for the reason set forth below.

Looking to the portion of the Cunningham patent that is cited in the rejection as disclosing this requirement of claim 1, Cunningham states at col. 4, line 65 through col. 5, lines 5, that (emphasis added):

> The applicant may peruse, via the computer display, the "federal box" and other details of each of the offers to find the one that is most attractive (e.g., has the most favorable terms). <u>If the applicant accepts one of the offers, the application data for the applicant is forwarded to the financial institution that made the accepted offer.</u> The financial institution then processes the application and makes arrangements to send the financial card to the applicant.

However, it is submitted that the discussion in this portion of the Cunningham patent differs from the requirements in several key ways. In the portion of the Cunningham system discussed here, the "applicant may peruse... the "federal box" and other details of each of the offers to find the one that is most attractive (e.g., has the most favorable terms) [to the applicant]" and "[i]f the applicant accepts one of the offers", then "the application data is forwarded to the financial institution". This is in contrast to the requirements of claim 1 of "receiving notification of those services <u>for which the applicant is eligible</u> *from* the primary service provider, <u>*if* the applicant is eligible to receive any services</u> *from* the

primary service provider". Thus, while the Cunningham system is discussed in terms of the applicants selecting the financial institution and *then* the "application data for the applicant is forwarded to the financial institution", the claimed system requires providing "notification [from the primary service provider] of those services for which the applicant is eligible" if "the applicant is eligible to receive any services from the primary service provider". Moreover, the claim also requires "transmitting the collected application data to a primary service provider via the network for evaluation of the eligibility of the applicant for receiving services provided by the primary service provider". It is therefore submitted that the system discussed in Cunningham is virtually the opposite of the requirements of claim 1 in this respect.

In the "Response to Arguments" portion of the final Office Action, it is alleged that (emphasis added):

> Response: (1) In Cunningham the Applicant goes online and receives offers for a credit card, if the applicant finds an offer that the applicant likes and is determined to be eligible for that offer the financial institution processes the application and issues the credit card to the applicant. Of course, the credit score of the applicant is checked to determine eligibility for the offers prior to the credit card being issued to the applicant. This is old and well known. For example, a customer applies for a credit card at Macy's and they have a 20 per cent off of the purchase if the customer applies for the credit card and the credit card is approved. The application is taken, the credit is checked and the card is approved and because the customer had excellent the customer was given another ten dollars off the purchases put on the new credit card. The customer is also allowed to use the credit card other places besides Macy's since the credit card is a Visa credit card and

However, the statement in Cunningham makes it clear that the offer is made by the financial institution prior to the applicant being identified to the financial institution, and "if the applicant accepts one of the offers" from a financial institution, then "the application data for the applicant is forwarded to the financial institution that made the [applicant's] accepted offer. The financial institution then processes the application"

(Cunningham at col. 5, lines lies et seq.—emphasis added). The text of the Response to Arguments appears to make the assumption that "of course, the credit score of the applicant is checked to determine eligibility for the offer prior to the credit card being issued to the applicant", but claim 1 requires "transmitting the collected application data to a primary service provider via the network for evaluation of the eligibility of the applicant for receiving services provided by the primary service provider" and "receiving notification of those services for which the applicant is eligible *from* the primary service provider, *if* the applicant is eligible to receive any services *from* the primary service provider" (emphasis added). The claim language thus requires transmission of application data to the services provider for evaluation of eligibility followed by notification of eligibility by the service provider, while the Cunningham discusses a different process, where the applicant chooses the financial institution and its offer, and then the application data is transmitted to the financial institution for a determination of eligibility.

Moreover, the line of argument set forth in the Response section appears to rely upon Official Notice of what is asserted to be "old and well known", but the rejection of claim 1 does not include any indication that the Examiner is relying upon "Official Notice" of a feature that is believed to be "old and well known". It is submitted that this is an improper reliance upon Official Notice.

The Response to Arguments section of the final Office Action further contends that (emphasis added):

> (2) In col. 4, lines 53-64, it is interpreted that Cunningham discloses a grade/score for the different risk of applicants and even though it is not expressly recited it is presumed that the institutions and service providers are different when offering products. After all, why would the same financial institution of a primary service provider offer services to high risk and low risk applicants? Further, "Home Loans in Cyberspace" on page 2, paragraph 7 recites 'lenders try to sell... to Freddie Mac, and if Freddie's computer accepts the loan, the lender

> has no responsibility to buy the loan back ...". This is interpreted as a primary service provider going to a second service provider if the applicant is ineligible for all of the services from a primary service provider.

However, it is submitted that the above line of argument, while conceding that the cited patents and publications do not expressly disclose the claimed features, relies upon a faulty "presumption" that one of ordinary skill in the art would not make. More specifically, one of ordinary skill in the art would not presume that offers for different applicants of different risk types would necessarily come from "institutions and service providers [that] are different". Looking to the credit card illustration used in the line of argument in the final Office Action, it is known to one of ordinary skill in the art that the same financial institution will offer "standard", "silver", "gold", and "platinum" credit cards to applicants based in part upon perceived creditworthiness. Thus, one of ordinary skill in the art would not assume that offers to applicants of different creditworthiness would necessarily come from different financial institutions. It appears that the line of argument relies upon what is believed to be inherently disclosed in the Cunningham patent, but as shown by the preceding illustration, it is not inherent that offers to applicants of different credit risk come from different financial institutions. Moreover, a "presumption" that "the institutions and service providers are different when offering products" is not evidence provided by the art, but supposition that has not been supported in the cited art.

Further, claim 1 also requires "transmitting the collected application data to at least one secondary service provider via the network for evaluation of the eligibility of the applicant for receiving services provided by the secondary service provider, *if* the applicant is ineligible for all services provided by the primary service provider" (all emphasis added). The rejection refers to Cunningham at col. 5, lines 6 through 43, which states that (all emphasis added):

> Referring to FIG. 3, a flow chart of the primary steps for obtaining data from financial institutions and other outside sources is shown. Some information may be stored remotely and accessed as needed (e.g., credit bureau data) while other data (e.g., participating financial institution data, financial card term data) may be stored locally to improve performance of the system. In the first step 60, participating financial institutions provide contact and other information that may be needed to complete a transaction using the present invention (participating financial institution data.) For example, information for forwarding accepted offers may be stored for later retrieval. In the next step 62, selection criteria for each participating financial institution *is obtained*. In the next step 64, the terms of the financial card offers for the acceptable grade/score combinations are specified (financial card term data). Preferably, the selection criteria and financial card term data are organized in a matrix as described above. Different financial card terms may be specified for each grade/score combination for which the financial institution is willing to make an offer. Finally, in step 66, information from credit bureaus and other third party sources may be *retrieved* and *stored*. Preferably, the stored information is access or contact information that may be used to obtain up-to-date credit bureau data directly while a transaction is being processed. Using this approach, the most current credit bureau data may be used in determining a rating for an applicant.
>
> In a preferred embodiment of the present invention, financial institutions are permitted to update their selection criteria and financial card term data frequently. The modified data may be uploaded as needed to the databases that support the transaction processing. A financial institution may be able to increase the likelihood its offers are accepted by changing the selection criteria (i.e., financial risk rating) and associated term data. For example, an institution may decide to lower the score associated with a particular grade so that more applicants may be presented with a particular offer. An institution may also decide to add offers for other grade/score combinations.

In this portion of the Cunningham patent, a system of providing qualification information is provided by the financial institutions to the Cunningham system, so that the Cunningham system is able to evaluate the applicants based upon the selection criteria provided by the institutions. This description is in contrast to the requirements of claim 1, which requires "transmitting the collected application data *to* at least one secondary service provider" (instead Cunningham *receives* selection

criteria), and this collected application data is provided "for evaluation of the eligibility of the applicant for receiving services provided by the secondary service provider" (and the evaluation is not performed by some central system as in Cunningham). Moreover, this transmission to the secondary service provider is performed "*if* the applicant is ineligible for all services provided by the primary service provider", and Cunningham says nothing regarding this.

It is therefore submitted that the cited patents, and especially the allegedly obvious combination of Berry, Cunningham and the Home Loans publication set forth in the rejection of the Office Action, would not lead one skilled in the art to the applicant's invention as required by claims 1 and 13.

Withdrawal of the §103(a) rejection of claims 1 through 3, 5 through 15, and 17 through 24 is therefore respectfully requested.

CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

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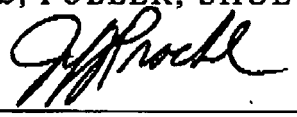

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